

REMARKS

Applicant submits this Amendment in reply to the Office Action mailed August 30, 2005.

By this Amendment, Applicant amends claims 1, 9-10, 16, 20-21, 24, and 28-29, and adds new claims 34-36. The originally-filed specification, claims, and drawings fully support the subject matter of the amended and new claims. No new matter has been introduced.

Before entry of this Amendment, claims 1-33 were pending in this application. After entry of this Amendment, claims 1-36 are pending in this application. Claims 1, 16, and 24 are the sole independent claims.

On page 2 of the Office Action, claims 9-10, 20-21, and 28-29 were objected to for using “one of” and “and” instead of “or.” While Applicant do not necessarily agree with the objection, solely in the interests of expediting the prosecution of this application, claims 9-10, 20-21, and 28-29 have been amended to recite “or” instead of “one of” and “and.” Accordingly, Applicant respectfully requests withdrawal of the claim objection.

On pages 2-8 of the Office Action, claims 1-4 and 6-33 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,359,993 to Slater et al. (“Slater”). Applicant respectfully traverses this rejection.

Slater does not disclose the claimed invention. For example, as-amended independent claim 1 recites a device for performing a medical procedure including, among other aspects, an “indicator including a chemical capable of undergoing a color change when exposed to a particular environment.” In another example, as-amended independent claim 16 recites a medical device including, among other aspects, “a visual

indicator... [that] includes a chemical configured to be substantially the same color as the surface of the handle before being exposed to a particular environment, and wherein the chemical is configured to undergo a color change to a different color than the surface of the handle after being exposed to the particular environment." In a further example, as-amended independent claim 24 recites, among other aspects, an "indicator including a chemical capable of undergoing a color change when exposed to a particular environment." Slater does not disclose any of the aforementioned aspects of their respective claims.

Slater discloses an apparatus for counting the number of times a medical instrument has been sterilized including an indicator having sequential indicia and a heat responsive member for indicating a next one of the indicia. The Examiner cites a counter 10 of Slater as allegedly corresponding to the claimed indicator. Counter 10, however, includes a ring-like ratchet member 16 with interior teeth 30 and an exterior display surface 26, as shown in Figs. 1-2. While the individual indicia on individual facets 26 on the outer circumference of wheel 16 may be color coded (i.e., each facet 26 of wheel 16 is a different color), Slater does not disclose that the counter includes a chemical capable of undergoing a color change after being exposed to a particular environment. Accordingly, for at least these reasons, Applicant respectfully requests withdrawal of the Section 102(b) rejection based on Slater.

On pages 8-9 of the Office Action, claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Slater. Claim 5 depends from independent claim 1 and is patentable for at least the same reasons discussed above.

Claims 2-15, 17-23, and 25-36 depend from one of independent claims 1, 16, and 24, and are therefore allowable for at least the same reasons that each of the corresponding independent claims is allowable. In addition, each of the dependent claims recite unique combinations that are neither taught nor suggested by Slater, and therefore are separately patentable.

In view of the foregoing remarks, Applicant submits that this claimed invention, as-amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry and consideration of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of pending claims 1-36.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. For example, the Office Action recites on pages 3, 5, and 7 that "applicant discloses that 'any suitable method of printing may be used' in paragraph 26 of the specification" as supporting a rejection, and that on pages 4, 6, and 7 that "it is well known in the art that autoclaving can use steam and/or dry heat." Unless expressly noted otherwise, Applicant declines to subscribe to these or any other statement or characterization in the Office Action.

In discussing the specification and claims in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

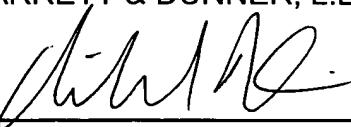
Application No. 10/720,910
Attorney Docket No. 06530.0317
Amendment - November 7, 2005

Please enter any extension of time necessary to submit this Amendment, and
charge any required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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